

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

UNITED STATES OF AMERICA,

Plaintiff,

v.

DARRYL ARMSTRONG,

Defendant.

No. CR92-288Z

MINUTE ORDER

The following Minute Order is made by direction of the Court, the Honorable Thomas S. Zilly, United States District Judge:

(1) Defendant Darryl E. Armstrong's motion for relief from judgment pursuant to Fed. R. Civ. P. 60(b), docket no. 17, is DENIED. The Federal Rules of Civil Procedure do not apply in the criminal context. In addition, the Ninth Circuit has ruled that the new rule announced in Blakely v. Washington, 542 U.S. 296 (2004) and United States v. Booker, 125 S. Ct. 738 (2005), does not apply retroactively to a conviction that was final before that decision was announced. Schardt v. Payne, ___ F.3d ___, 2005 U.S. App. LEXIS 13569, at *35 (9th Cir. July 8, 2005).

(2) The Clerk is directed to send a copy of this Minute Order to all counsel of record.

Filed and entered this 12th day of August, 2005.

BRUCE RIFKIN, Clerk

s/ Casey Condon

By _____
Casey Condon
Deputy Clerk